



IN THE HIGH COURT OF CHHATTISGARH BILASPUR

Cri. Rev. No. 189 / 2006

Single Bench

Revisionist

M/s. Nikita Gas Agency,

Sector - 1, Shanker Nagar, Raipur

By: - Prop. Ameerchand Jain

S/o Late Shadadilal Jain, Age 86 Yr.

R/o Lalita Chowk, Jorapara, Raipur

VERSUS

State of Chhattisgarh,

Through, Collector, Raipur

RECEIVED-COPY
23-3-06
CLERK to A. G. BILASPUR

Respondent

Filed on
by Shri

REVISION UNDER SEC. 397 CR.P.C.

Aggrieved By The Order Dated 15/02/06 Passed By The Court Of Session's Judge, Raipur, In CrA 04/06; Whereby Appeal Against Order Dated 21/11/05, Of Collector, Raipur In Rev. Case No. 01 / B - 121 / Year 2003-04 Has Not Been Entertained On Ground Of Limitation.

(17)

आदेश पत्रक

CV REN-189/2006

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>25.03.2006</u> Shri Raja Sharma, learned counsel for the applicant. Shri UKS Chandel, learned Panel Lawyer for State/respondent. Learned counsel for the applicant prays that this matter be finally disposed of at the stage of admission. Prayer is not opposed. The matter is finally heard today. By this revision, the applicant has impugned the order dated 15.2.2006 passed by the learned Sessions Judge, Raipur in Criminal Appeal No. 04/2006 whereby the appeal preferred by the applicant herein against the order dated 21.11.2005 passed by the Collector, Raipur in Case No. 1/B/121-2003-04 was dismissed as barred by limitation. Brief facts are that against the applicant herein, an order dated 21.11.2005 was passed by the Collector (Food Branch) Raipur in Case No. 1/B/121-2003-04 wherein an order of forfeiture of 207 gas cylinders was passed subject to the condition that the applicant herein would deposit the value equivalent to the prescribed rate of the aforesaid 207 gas cylinders. The applicant herein was not present on the date of order i.e. 21.11.2005. After	

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आदेश पत्रक

C.A.N. 189/2006

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश - 2-
	passing the order, the Collector directed that the applicant herein should be communicated with the said order. The applicant herein preferred an appeal before the Sessions Judge, Raipur (Criminal Appeal No. 04/2006), on 30.12.2005 supported with an application under Section 5 of the Limitation Act and affidavit of the applicant wherein it was mentioned that the order dated 21.11.2005 passed by the Collector was communicated to him on 21.12.2005. The learned Sessions Judge, however, dismissed the appeal on the ground that on 12.9.2005, when the case was posted for orders on 21.11.2005 by the Collector, Raipur, the applicant herein was present and thus had knowledge about the date of order. Therefore since the applicant herein remained absent on the date of order, he could not be heard to say that he did not have knowledge of the order dated 21.11.2005. Thus, reckoning the period of 30 days as prescribed under Section 6 (C) of the Essential Commodities Act, 1955 the learned Sessions Judge held that the appeal was barred by limitation and dismissed the same accordingly. Shri Raja Sharma, learned counsel for the applicant herein argued that the limitation against an order under Section 6 (A) of the Essential Commodities Act begins to run from the date of	

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आदेश पत्रक

Cr. P.N. 189/2006

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक-आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश - 3 -
	communication of the order to such person and any such person aggrieved by the order of confiscation passed under Section 6 (A) may, within one month from the date of communication to him of such order, prefer an appeal. Learned counsel for the applicant submitted that in view of the un-controverted statement in the application under Section 5 of the Limitation Act and affidavit by the applicant herein, the applicant herein had knowledge of the order dated 21.11.2005 on 21.12.2005. the appeal preferred by the applicant was clearly within limitation. On the other hand, Shri U.K.S Chandel, learned Panel Lawyer has supported the impugned order. Having heard the rival contentions, this revision deserves to be allowed. Under Section 6 (C) of the Essential Commodities Act, 1955 any person aggrieved by an order of confiscation under Section 6 (A) may, within one month from the date of communication of such order, prefer an appeal. A perusal of the order sheet dated 21.11.2005 passed by the Collector clearly shows that the applicant was absent on the date of the order and after passing the order dated 21.11.2005, the Collector had further directed that the applicant herein, should be communicated with the order of confiscation passed by him. In this manner, there was	

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आदेश पत्रक

C.R.N.V. 189/2006

मामला क्रमांक

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	nothing to disbelieve the contention of the applicant herein in his application under Section 5 of the Limitation Act which was duly supported with an affidavit that he was communicated with the order passed by the Collector on 21.12.2005. In this manner, the appeal preferred by the applicant herein was within limitation. The learned Sessions Judge had, upon an erroneous interpretation of Section 6 (C), dismissed the application on wholly irrelevant grounds. In this manner, the impugned order dated 15.2.2006 suffers from a manifest error of law. In the result, this revision is allowed. Order dated 15.2.2006 passed by Sessions Judge, Raipur in Criminal Appeal 04/2006 is set aside. The learned Sessions Judge shall now dispose of the Criminal Appeal on merits in accordance with law.	- 4 - Sd/- Dilip Raosaheb Deshmukh Judge

[पीछे देखिये]

27/3/08
14/4/08
18/4/08